

COMPLAINT FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

1 CORPORATION (hereinafter "INTEL") is a corporation duly organized and existing
2 under and by virtue of the laws of the State of Delaware and is authorized to transact
3 and is transacting business in the State of California.

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5 2. The corporate headquarters of INTEL is at 2191 Laurelwood Road, Santa
6 Clara, CA, 95054.

7 3. DAIE alleges that defendant REED GROUP is a corporation duly organized
8 and existing under and by virtue of the laws of the State of Colorado and is authorized
9 to transact and is transacting business as a third-party claims administrator in the State
10 of California.

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12 4. The corporate headquarters of REED GROUP is at 10355 Westmoor Drive,
13 Westminster, CO 80021.

14 5. DAIE alleges that defendant CLAIM APPEAL FIDUCIARY SERVICES
15 (hereinafter "CAFS") is a corporation duly organized and existing under and by virtue of
16 the laws of the State of Colorado and is authorized to transact and is transacting
17 business as a third-party claims administrator in the State of California.

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19 6. The headquarters of CAFS is located at 2475 Northwinds Parkway, Suite
20 200, Alpharetta, GA 30009.

21 7. The true names and capacities, whether individual, corporate, government,
22 associate or otherwise of defendants DOES 1 through 50, inclusive, are unknown to
23 DAIE who therefore sues said defendants by such fictitious names. DAIE will amend
24 this complaint to allege their true names and capacities when ascertained. DAIE is
25 informed and believes and, therefore, alleges that each of the defendants designated
26 herein caused injury and damages proximately to DAIE and are therefore responsible to
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1 DAIE for the damages requested.

2 8. At all times relevant herein INTEL, REED GROUP, CAFS and DOES 1-50
3 acted as the employees and agents of each other, and in taking the actions hereinafter
4 alleged, each acted within the course and scope of such employment and agency, with
5 the full knowledge, consent, permission and ratification of one another.
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7 II. JURISDICTION

8 9. This Court has diversity jurisdiction over the parties pursuant to 28 U.S.C.
9 §1332(a). No Defendant is a citizen of the same state as Plaintiff and the amount in
10 controversy exceeds \$75,000.00, exclusive of interest and costs.
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12 III. FACTUAL BACKGROUND

13 10. DAIE alleges that the Defendants are responsible for all tortious, harassing,
14 and oppressive conduct that occurred during the investigation of his insurance claim.
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16 11. DAIE alleges that REED GROUP and CAFS make all claims decisions on
17 employee benefit plans issued by INTEL.

18 12. Defendant INTEL issued a Long-Term Disability Benefit Plan to DAIE
19 (Plan Number 10037343; hereinafter "PLAN").

20 13. At all relevant times prior to September 22, 2014, DAIE was the Server
21 Memory and Security Technology Director at INTEL.
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23 14. DAIE fully performed all duties required of him under the PLAN.

24 15. DAIE suffers from severe asthma, allergic rhinitis, chronic sinusitis,
25 obstructive sleep apnea, meralgia paresthetica, recurrent polypoid disease,
26 osteonecrosis, and lumbar spondylosis.

27 16. His condition, including the side effects of medical treatment, worsened
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1 until he could no longer continue working on September 22, 2013.

2 17. Prior to his injury, DAIE worked full-time as a Director of Technology at
3 INTEL, overseeing the work of hundreds of INTEL employees across many sites and
4 product divisions. In this role, he led the development of new server and workstation
5 memory architecture at INTEL by deploying five generations of memory and security
6 technologies across the company's platforms. He was responsible for delivering
7 complex technical solutions to more than 15 memory and security-related projects. His
8 position required: acute mental clarity, concentration, executive-level management
9 skills, effective communication, the capacity for technical problem-solving, and the
10 ability to process information quickly.
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12 18. DAIE's asthma, allergic rhinitis, and chronic sinusitis are extreme and life-
13 threatening. He has undergone 8 different sinus surgeries in the past decade in an
14 attempt to correct these conditions; however, no treatment has been successful. DAIE
15 must treat his symptoms with a strict regimen of medication: Prednisone, Fluconase,
16 QVAR inhaler, Symbicort, Pro-Air inhaler, Ventolin nebulizer, and Xolair. If he fails to
17 take his medication correctly, he will die within 24 hours. These medications have
18 debilitating side effects that prevent him from performing the substantial and material
19 duties of his occupation. Side effects include fatigue, loss of memory, confusion,
20 inability to process information, inability to communicate clearly, and insomnia. The
21 threat of exposure to allergens has forced DAIE to work from home in Arizona for the
22 past 7 years, without the ability to travel for work. He lives a substantial portion of his
23 life indoors in order to prevent contact with life-threatening allergens. DAIE's asthma
24 and sinus conditions have worsened over time with no signs of improvement.
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1 19. DAIE takes Prednisone steroid allergy medication, which has a
2 devastating impact on his mental health. As the Defendants are aware, the medication
3 has induced clinical depression, anxiety, and a mood disorder in DAIE. He experiences
4 other common side effects of the medication, including blurred vision, dizziness,
5 aggression, headaches, and irritability. DAIE's ability to interact in business and social
6 settings is greatly diminished. He is in an emotionally fragile state and rarely leaves his
7 home. Despite intensive medical treatment and heavy medication, DAIE constantly
8 suffers from his conditions. Doctors have determined that due to the severity of his
9 asthma he does not have other medication alternatives.

10 20. In April 2012, Dr. Ibrahim Aksoy diagnosed DAIE with Meralgia
11 Paresthetica. This is a neurological disorder that causes nerve deterioration from the
12 base of the spinal column to the thighs. EMGs, x-rays, MRIs, and bone density scans
13 have repeatedly affirmed this diagnosis. As a result of the disorder, DAIE experiences
14 severe chronic pain and a burning sensation throughout his lower back and thighs.
15 DAIE's condition has become more severe over time. In April 2013, a team of
16 physicians at the Mayo Clinic concluded that the illness was causing osteonecrosis and
17 degenerative changes in DAIE's right hip. In this area, he experiences extreme
18 discomfort and pain when required to sit or walk for 10 minutes or more. This forces
19 DAIE to constantly shift his physical position, preventing him from traveling any
20 significant distance by car or plane. DAIE treats his nerve pain with both steroid
21 injections and Gabapentin.

22 21. In April 2012, DAIE was also diagnosed with lumbar spondylosis, which is
23 degenerative osteoarthritis of the joints in the lumbar region of the spine. Multiple MRIs
24 25 26 27 28

1 have revealed a narrowing of DAIE's lumbar spinal canal at L3-L4, facet hypertrophy at
2 L5-S1, loss of disk height, and spinal stenosis. Like Meralgia Paresthetica, this
3 condition causes severe chronic pain in DAIE's lower back. The pain prevents him from
4 sitting or standing for any extended period of time. DAIE has treated the condition with
5 spinal steroid injections. However, this has only been minimally effective in reducing his
6 pain. Due to the degenerative nature of this condition, DAIE's pain will continue to
7 worsen in the future without the possibility of improvement.

9 22. DAIE made a claim for disability benefits under his PLAN on August 30,
10 2012. Upon filing his claim, DAIE submitted medical records and letters supporting his
11 disability from the following team of treating physicians: Amy Foxx-Orenstien, D.O.,
12 Laura Wilda, C.N.P., Harry Teaford, M.D., Paul Snyder, M.D., Lee Ann Kelley, M.D.,
13 Stephen Graham, M.D., David Barrs, M.D., John Raines, M.D., Renee Espinosa, M.D.,
14 Ibrahim Aksoy, M.D., Phillip Lyng, Lynda Facchiano, M.D., Amit Patel, M.D., Charlene
15 Hoffman Snyder, C.N.P., Christopher Beauchamp, M.D., Michael Whitaker, M.D.,
16 Susan Sterler, R.N., Robert Ferrigni, M.D., and Earl Labovitz. The record also
17 contained countless objective medical tests in support of his disabilities, including x-
18 rays, MRIs, blood work, CT scans, bone density scans, lung capacity tests, genetic
19 enzyme tests, spirometry tests, pulmonary function tests, sleep studies, and
20 neurological examinations.

21 23. Acting as claims administrator for the PLAN, REED GROUP paid DAIE
22 short-term disability benefits from September 25, 2012 until September 20, 2013. At
23 that time, REED GROUP wrongfully denied DAIE's claim for long-term disability (LTD)
24 benefits on the basis that there were no "Objective Medical Findings" in his claim file
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1 that showed a medical condition or a combination of conditions that precluded him from
2 returning to work at INTEL.

3 24. In violation of California law, the PLAN defines Total Disability as, "any
4 illness or injury that renders a Participant incapable of performing work. Both the illness
5 or injury, and the ability to perform work, must be substantiated by Objective Medical
6 Findings." The PLAN defines "Objective Medical Findings" extremely narrowly,
7 excluding any tests that are deemed to rely on Participant self-reports, physicians'
8 opinions, "or other third party opinions based on the acceptance of subjective
9 complaints (e.g. headache, fatigue, pain, and nausea)."
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11 25. On March 14, 2014, DAIE requested a first-level appeal of the REED
12 GROUP's claim denial. On June 11, 2014, the REED GROUP upheld its claim denial
13 on appeal, stating that "there were no Objective Medical Findings of the disabling
14 impact of a condition or combination of conditions that prevented him from working in
15 any occupation."
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17 26. On December 4, 2014, DAIE requested a final appeal of his LTD claim
18 denial. At that time, INTEL retained CAFS to perform an appeal review of the LTD Plan
19 claim appeal denials. In a letter sent April 30, 2015, CAFS upheld the denial of DAIE's
20 claim under the same rationale as REED GROUP.
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22 27. The Total Disability provisions of the PLAN provide benefits until the
23 claimant turns age 65.
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25 28. At the time of the filing of his claim, and at all times thereafter, DAIE was
26 and is entitled to receive benefits under the Total Disability provisions of his PLAN.

27 29. Soon after investigating DAIE's claim, Defendants determined that he was
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1 entitled to Total Disability benefits. Despite that fact, Defendants repeatedly engaged in
2 extreme and outrageous conduct with the aim of forcing DAIE to drop his claim and
3 return to work.

4 30. The Defendants' intentional conduct included, but was not limited to: falsely
5 alleging that DAIE was lying about and exaggerating his physical disability; purposely
6 misstating and misrepresenting statements made by DAIE and his treating physicians;
7 knowingly insisting, over DAIE's objections, on enforcing an insurance definition of Total
8 Disability that Defendants were well aware was in violation of well-established California
9 law; ignoring objective medical tests provided in the medical record; changing the
10 definition of "Objective Medical Findings" during repeated oral and written
11 correspondence with claims administrators; repeatedly disregarding MRIs, CT scans, x-
12 rays, and DNA mapping as "not Objective Medical Findings" without justification;
13 pressuring DAIE to engage in further medical testing that they knew would cause the
14 insured pain, emotional distress, and anxiety; forcing DAIE to undergo a litany of
15 rigorous medical examinations without considering their results; failing to perform appeal
16 reviews in a timely manner in violation of California law; repeatedly challenging DAIE's
17 character and truthfulness despite the existence of overwhelming medical evidence
18 supporting his claim.

19 31. The intentional conduct of the Defendants' has caused extreme mental,
20 physical, and emotional distress to DAIE. The Defendants' repeated allegations that the
21 Plaintiff was lying about or exaggerating his condition have produced a wide range of
22 emotional reactions in the Plaintiff including fear, anxiety, stress, sadness, frustration,
23 anger, and feelings of hopelessness. DAIE has also experienced mental and physical
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1 reactions to his legal battle with the Defendants, including difficulty breathing and
2 enhanced symptoms of depression such as fatigue, difficulty concentrating, and
3 diminutions to interest in life and in living. The Defendants' urged DAIE to undergo new
4 medical tests and take experimental medications that have taken a devastating physical
5 toll on the Plaintiff's body. The Defendants also induced DAIE to increase the dosage of
6 his existing medications during the claims investigation, which only aggravated his
7 physical, emotional, and mental conditions. The Defendants' improper conduct and
8 claims mishandling have deeply worsened the Plaintiff's anxiety and clinical depression.
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10 FIRST CAUSE OF ACTION

11 (Intentional Infliction of Emotional Distress against INTEL, REED
12 GROUP, CAFS, and DOES 1-50.)

13 32. Plaintiff DAIE incorporates by reference paragraphs 1 through 31,
14 inclusive, of the complaint as though set forth in the cause of action.
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16 33. As his insurer, claims administrators, and employer, the Defendants are in
17 positions of actual power to affect DAIE's claim approval and future financial interests.

18 34. The Defendants have full access to DAIE's medical records and are thus
19 extremely aware of his physical disabilities and weak emotional state. The Defendants
20 know that DAIE is particularly vulnerable to emotional distress.
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22 35. The Defendants engaged in extreme and outrageous conduct that they knew
23 and know would cause the claimant severe mental distress. This is an intentional tactic
24 to force DAIE to drop his disability claim, return to work in pain, and/or accept a smaller
25 settlement than he is rightly entitled to under his PLAN.
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36. Alternatively, the Defendants acted with reckless disregard as to whether their actions would cause DAIE severe mental distress.

37. As a direct and proximate result of the aforementioned extreme and outrageous conduct, DAIE has been injured and damaged in an amount to be determined according to proof at trial.

38. The actions of Defendants were and are malicious, fraudulent, and oppressive by clear and convincing evidence.

WHEREFORE, DAIE prays for judgment against Defendants, and each of them, as hereinafter set forth.

PRAYER FOR RELIEF

AS TO THE FIRST CAUSE OF ACTION:

WHEREFORE, DAIE prays for relief as follows:

1. General damages against Defendants INTEL, REED GROUP, CAFS, and DOES 1-50 for emotional distress in a sum to be determined at the time of trial.
2. Special damages in an amount according to proof at trial;
3. Exemplary damages in an amount according to proof at trial;
4. For such other and further relief as the Court deems just and proper.

Dated: April 22, 2016

Respectfully submitted,

RAY BOURHIS ASSOCIATES

By: 

Eric Whitehead
Attorney for Plaintiff,
ED DAIE

DEMAND FOR JURY TRIAL

Plaintiff ED DAIE herewith demands a jury trial on all issues.

Dated: April 22, 2016

Respectfully submitted,

RAY BOURHIS ASSOCIATES

By: 

Eric Whitehead
Attorney for Plaintiff,
ED DAIE